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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,867	01/18/2002	Joseph G. Buchl	43314/236951	5358
826	7590	02/27/2009	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			SHEPARD, JUSTIN E	
ART UNIT	PAPER NUMBER			
		2424		
MAIL DATE	DELIVERY MODE			
02/27/2009	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/053,867	Applicant(s) BUEHL ET AL.
	Examiner Justin E. Shepard	Art Unit 2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 December 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5-7, 9-16, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carles in view of Flickinger in view of Del Sesto.

Referring to claim 1, Carles discloses a staging server comprising computer readable medium for storing an asset (column 3, lines 21-28), wherein said asset has a structure combining both related content and data for distribution and service implementation in a digital cable system (column 9, lines 22-24), said asset comprising: a metadata object (column 3, lines 45-51), wherein the metadata object executing in a cable headend associated with processing the asset (figure 5; column 9, lines 22-24); and

a content object, wherein the content object represents data to be stored in one of a plurality of content servers in the cable headend based upon instructions originating from the application program as a result of interpreting the metadata object and wherein

the metadata object identifies the content object (column 3, lines 45-51; column 9, lines 22-24).

Carles does not disclose a server wherein a metadata object further comprises an application program identifier identifying an application program; and wherein the structure is understood by the application program identified by the application program identifier.

In an analogous art, Flickinger teaches a server wherein a metadata object further comprises an application program identifier identifying an application program (paragraphs 56 and 74).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application program identifier taught by Flickinger to the system disclosed by Carles. The motivation would have been to enable a standard to be employed so that multiple sources of commercials could be used.

Carles and Flickinger do not disclose a server with metadata wherein the structure is understood by the application program identified by the application program identifier.

In an analogous art, Del Sesto teaches a server with metadata wherein the structure is understood by the application program identified by the application program identifier (column 9, lines 25-50).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application header taught by Del Sesto to the asset disclosed by

Carles and Flickinger. The motivation would have been to allow for the receiver to easily and quickly check for updates to the application which might have occurred.

Referring to claim 5, Carles does not disclose an asset of claim 1, wherein the content object represents data selected from the group comprising an MPEG file, an executable file, an HTML page, and a JPEG image.

In an analogous art, Flickinger teaches an asset of claim 1, wherein the content object represents data selected from the group comprising an MPEG file (paragraph 61), an executable file, an HTML page, and a JPEG image.

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the MPEG files taught by Flickinger to the system disclosed by Carles. The motivation would have been to use a standard video protocol to save on development costs.

Referring to claim 6, Carles discloses an asset of claim 1, wherein the metadata object identifies the content object (column 9, lines 22-24).

Carles does not disclose a system wherein the content object is identified as a movie.

The examiner takes official notice that it is notoriously well known in the art to use metadata to identify content as a movie. At the time of the invention it would have been obvious for one of ordinary skill in the art modify the metadata disclosed by Flickinger to identify the content to be a movie or any other type of content. The

motivation would have been that providing the additional information would enable the system to store and retrieve data more efficiently, therefore saving time when performing the related actions.

Referring to claim 7, Carles discloses an asset of claim 1, further comprising a machine readable description identifying the metadata object and the content object (column 3, lines 21-28).

Referring to claim 9, Carles discloses a digital cable system comprising a cable headend that receives and delivers content and data related to the content to facilitate service implementation in a digital cable system (column 3, lines 21-28; column 9, lines 22-24), comprising:

a staging server located in the cable headend that receives an asset having a structure from a content provider, wherein the asset comprises both the content and the data related to the content (column 3, lines 21-28);

a content server located in the cable headend storing the content and in communication with a subscriber set-top box for providing the content to the set-top box (column 3, lines 45-51; column 2, lines 43-48); and

in the cable headend configured to process a machine readable description file (column 3, lines 45-51).

Carles does not disclose a system wherein the data related to the content further comprising an application program identifier;

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a first application program executing the machine readable description file; and the application program identifier to identify a second application program executing and understanding the structure of the asset, wherein the second application program interprets the data related to the content, and wherein the second application program identifies the content server from among a plurality of content servers to receive the content from the staging server.

In an analogous art, Flickinger teaches a system wherein the data related to the content further comprising an application program identifier (paragraphs 56 and 74).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application program identifier taught by Flickinger to the system disclosed by Carles. The motivation would have been to enable a standard to be employed so that multiple sources of commercials could be used.

Carles and Flickinger do not disclose a system wherein the application program identifier to identify a second application program executing and understanding the structure of the asset, wherein the second application program interprets the data related to the content, and wherein the second application program identifies the content server from among a plurality of content servers to receive the content from the staging server.

In an analogous art, Del Sesto teaches a system wherein the application program identifier to identify a second application program executing and understanding the structure of the asset (column 9, lines 43-47), wherein the second application program interprets the data related to the content (column 9, lines 43-47), and wherein

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the second application program identifies the content server from among a plurality of content servers to receive the content from the staging server (column 9, lines 34-36).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application header taught by Del Sesto to the asset disclosed by Carles and Flickinger. The motivation would have been to allow for the receiver to easily and quickly check for updates to the application which might have occurred.

Referring to claim 10, Carles does not disclose a system of claim 9, further comprising an asset management system located in the cable headend comprising the first application program processing the data related to the content to identify the application program associated with the application identifier.

In an analogous art, Flickinger teaches a system of claim 9, further comprising an asset management system located in the cable headend comprising the first application program processing the data related to the content to identify the application program associated with the application identifier (figure 7, parts 719, 721 and 723).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application program identifier taught by Flickinger to the system disclosed by Carles. The motivation would have been to enable a standard to be employed so that multiple sources of commercials could be used.

Referring to claim 11, Carles discloses a system of claim 10, wherein the asset management system maintains a database associating the content and the data related to the content using the machine readable description file (column 3, lines 45-51).

Referring to claim 12, Carles discloses system of claim 10, wherein the asset management system resides between the application program and the staging server such that the staging server and application program are in indirect communication (figure 5; column 9, lines 22-36).

Referring to claim 13, Carles discloses a system of claim 10, wherein the asset management system is operable to instruct the content server to request at least a portion of the content from the staging server (column 4, lines 18-23).

Referring to claim 14, Carles discloses a system of claim 9, wherein the application is operable to identify the content server based upon the data related to the content (column 3, lines 16-28).

Referring to claim 15, Carles discloses a system of claim 9, wherein the content server receives at least a portion of the content from the staging server (column 3, lines 16-28).

Referring to claim 16, Carles does not disclose a system of claim 9, wherein the content server requests the at least a portion of the content from the staging server using File Transfer Protocol (FTP).

The Examiner takes Official Notice that it is notoriously well known in the art to use FTP to transfer files on a communication network.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use FTP to connect up the components disclosed by Carles. The motivation would have been to use a well known protocol to keep development costs down.

Claim 19 is rejected on the same grounds as claim 9, 10 and 15.

Claims 20 and 21 are rejected on the same grounds as claim 15.

Claim 22 is rejected on the same grounds as claims 10 and 13.

Referring to claim 23, Carles and Flickinger does not disclose a method of claim 20, wherein the step of examining the related data by the application further comprises the step of identifying at least one server of a plurality of servers that should receive at least a portion of the content based upon rules associated with the application.

In an analogous art, Del Sesto teaches a method of claim 20, wherein the step of examining the related data by the application further comprises the step of identifying at least one server of a plurality of servers that should receive at least a portion of the content based upon rules associated with the application(column 9, lines 25-50).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the application header taught by Del Sesto to the asset disclosed by Carles and Flickinger. The motivation would have been to allow for the receiver to easily and quickly check for updates to the application which might have occurred.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carles, Flickinger and Del Sesto as applied to the claims above, and further in view of Hall.

Referring to claim 2, Carles, Flickinger and Del Sesto do not disclose an asset of claim 1, further comprising an embedded asset, such that the asset is recursive.

In an analogous art, Hall teaches an asset of claim 1, further comprising an embedded asset, such that the asset is recursive (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Carles, Flickinger and Del Sesto. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 3, Carles, Flickinger and Del Sesto do not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object.

In an analogous art, Hall teaches an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Carles, Flickinger and Del Sesto. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 4, Carles, Flickinger and Del Sesto do not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object.

In an analogous art, Hall teaches an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object (figure 6, "PROPERTY 3").

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset taught by Hall in the system disclosed by Carles, Flickinger and Del Sesto. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carles, Flickinger and Del Sesto as applied to the claims above, and further in view of Bergman.

Referring to claim 8, Carles, Flickinger and Del Sesto do not disclose an asset of claim 7, wherein the machine readable description comprises XML.

In an analogous art, Bergman teaches an asset of claim 7, wherein the machine readable description comprises XML (column 14, lines 58-67).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use XML for the metadata, as taught by Bergman, in the system disclosed by Carles, Flickinger and Del Sesto. The motivation would have been to use a well known description language so that it would be simpler for people to create metadata for the content.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carles, Flickinger and Del Sesto as applied to claim 9 above, and further in view of Chen.

Referring to claim 17, Carles, Flickinger and Del Sesto do not disclose a system of claim 9, wherein the application comprises a provisioning user interface to allow a user to identify the at least one server to receive at least a portion of the content.

In an analogous art, Chen teaches a system of claim 9, wherein the application comprises a provisioning user interface (figure 7, parts 508 and 510) to allow a user to identify the at least one server to receive at least a portion of the content (column 7, lines 10-14).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the UI taught by Chen to the system disclosed by Carles, Flickinger and

Del Sesto. The motivation would have been to enable the data to be further customized at the headend, therefore allowing data to be changed on an as needed basis.

Referring to claim 18, Carles, Flickinger and Del Sesto do not disclose a system of claim 17, wherein the provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server.

In an analogous art, Chen teaches a system of claim 17, wherein the provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server (column 7, lines 10-14).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the UI taught by Chen to the system disclosed by Carles, Flickinger and Del Sesto. The motivation would have been to enable the data to be further customized at the headend, therefore allowing data to be changed on an as needed basis.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
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JS